

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2016/2017

ULF2622 – FAMILY LAW II

(All Sections / Groups)

24 FEBRUARY 2017

Reading Time : 3.00 p.m. – 3.15 p.m.
(15 Minutes)

Answering Time: 3.15 p.m. – 6.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages (excluding cover page) with 5 Questions only.
3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copy of:
 - i. Islamic Family Law (Federal Territories) Act 1984
 - ii. Al- Quran (Translation)
5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Talaq is different from other types of dissolution of marriage. State the said difference (s) and further explain in detail four (4) other types of dissolution of marriage recognized by the Shariah and the Islamic Family Law (Federal Territories) Act 1984.

(25 marks)

QUESTION 2

Amirul and Amira were married in 2014. Amirul was a clerk with a small salary. Amira took the effort to help him by selling *Nasi Lemak* in town where the business ran very well. After some times, they managed to buy a house which was registered in their names, as a jointly acquired property.

Two years after that, Amirul started to change where he became a hot-tempered husband. Despite Amira's effort in trying to ease the financial burden, Amirul kept on abusing her. He always beats and slaps Amira without just reason and not only that, he started to neglect his obligation to provide maintenance to Amira.

Amira, who was unable to cope with the situation, decided to apply for *Fasakh* where the Shariah Court granted her application. During the pronouncement of the *Fasakh*, Amira was pregnant for four months.

Until the divorce, Amira has never remitted her *maskahwin*.

Amira came to seek for your advice on the following:

- a) What are the rights after the divorce that Amira may claim as provided by the Shariah as well Islamic Family Law (Federal Territories) Act 1984?

(18 marks)

- b) How long is the period of *Iddah* in her case? Cite the relevant authority in your answer.

(3 marks)

- c) Whether her application for *Fasakh* earlier amount to *nusyuz* that might result to her rights after the divorce being denied?

(4 marks)

(Total: 25 marks)

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QUESTION 3

Amongst other issues arising from the dissolution of the marriage is the issue relating to custody of the children. Discuss in detail the consideration that the Shariah Court will take into account in determining the said right. Support your answer with the Shariah evidence, relevant provisions under the Islamic Family Law (Federal Territories) Act 1984 as well as the decided cases.

(25 marks)

QUESTION 4

“Marriage according to Islamic Law is a civil contract. But, being an act recommended by the teachings of Islam, it is also a religious sacrament. Marriage is legally contracted by a declaration made by one contracting party followed by a corresponding acceptance from the other one.”

(Ahmad Ibrahim, *Family Law in Malaysia (Kuala Lumpur)* 3rd Ed, Lexis Nexis 1997)

Based on the above statement, discuss in detail five (5) elements of a valid marriage.

(25 marks)

QUESTION 5

Aina has just started her new job in a construction company where he met Adam, a Senior Engineer in the company. They became closer as they work in the same project, and they both started to fall in love.

As they entered into a more serious relationship, Adam made a confession that he was actually a married man. Aina was shocked at first but later convinced when Adam promised to take her as his fiancée to prove his sincerity. After discussions being made, the couple was betrothed with the approval of both families. The ceremony was held according to the Malay custom with the exchange of gifts. During the ceremony, the families also decided for the marriage to be held in three months time.

Towards the date of the marriage agreed by the parties, major preparation has been carried out by Aina's family including the booking of hall, catering, wedding dresses, gifts, decoration and others. Aina's parents, Dato' Rahim and Datin Rahimah wanted the ceremony to be luxurious as Aina is their only daughter. Furthermore, both of the parents are among the well-known corporate figures in Kuala Lumpur.

Unfortunately, one month before the marriage, Adam met Aina and told her that he has made up his mind to call off the engagement without giving any reason. Aina was very frustrated and hardly cope with the situation. Not only her, the whole family members faced the disappointment and embarrassment with family and friends.

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Aina decided to take legal action against Adam for what he has done to her and the family. Adam, in his reply to Aina, stated that she would not be able to take the action as Aina knew that he is a married man.

- a) As a Shari'ie lawyer, advise Aina as to her rights under the Shariah as well as under the IFLA 1984, and the chances of her winning the case. State the relevant authorities where appropriate.

(19 marks)

- b) Give two (2) circumstances where a betrothal is not allowed under Shariah Law.

(6 marks)

(Total: 25 marks)

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